

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2021-276-C - ORDER NO. 2021-816  
DECEMBER 21, 2021

IN RE: Application of ExteNet Asset Entity, LLC for )	ORDER GRANTNG
a Certificate of Public Convenience and )	CERTIFICATE AND
Necessity to Provide Competing Local )	APPROVING
Exchange, Exchange Access, and )	ALTERNATIVE AND
Interexchange Telecommunications Services )	FLEXIBLE
in the State of South Carolina and for )	REGULATION
Alternative and Flexible Regulation )	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of ExteNet Asset Entity, LLC (“EAE,” “Company,” or “Applicant”) for a Certificate of Public Convenience and Necessity (“CPCN”), authorizing EAE to provide facilities based and resold local exchange and interexchange telecommunications services within the State of South Carolina. Additionally, the Company seeks alternative and flexible regulation.

**I. PROCEDURAL HISTORY**

The Application was filed on August 24, 2021, pursuant to S.C. Code Ann. Section 58-9-280 (2015 and Supp. 2021) and the rules and regulations of the Commission. By its Application, the Company also requests flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C; alternative regulation of its interexchange business offerings pursuant to Commission Order Nos. 95-1734 and

96-55 in Docket No. 95-661-C, as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C; and a waiver of certain Commission regulations.

The Clerk's Office of the Commission instructed the Company to publish, one time, a Notice of Filing ("Notice") in newspapers of general circulation in the areas of the state affected by the Application. The Notice provided information regarding the nature of the proceeding and advised any person desiring to participate as a party of record to file a Petition to Intervene on or before October 18, 2021. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was filed by the South Carolina Telephone Coalition ("SCTC") on September 16, 2021. Following the intervention, SCTC and the Company reached a Stipulation. The Stipulation is attached hereto as Order Exhibit I.

The Office of Regulatory Staff ("ORS"), a party of record pursuant to Section 58-4-10 of the South Carolina Code of Laws (Supp. 2021), filed a Notice of Appearance of C. Lessie Hammonds, Esquire, and Donna L. Rhaney, Esquire, on September 8, 2021. ORS reviewed the Application and concluded the Company's request for a CPCN is consistent with the public interest. Additionally, ORS informed the Commission that it did not intend to appear at the hearing.

A hearing was held on November 30, 2021, at 2:00 P.M. before the full Commission. Chairman Justin T. Williams presided. The Applicant was represented by John J. Pringle, Jr., Esquire. Neither SCTC nor ORS appeared at the hearing.

Pursuant to S.C. Code Ann. Regs. 103-840, counsel for the Applicant moved to consolidate this proceeding with Docket No. 2021-277-C, an accompanying case regarding

the transfer of assets between EAE and its corporate parent, ExteNet Systems, Inc. (“ESI”).  
Chairman Williams granted the motion.

## **II. EVIDENCE OF RECORD**

Brian Kirk, Deputy General Counsel of ESI, appeared via video conference and testified in support of the Application. The evidence shows that the Company is a limited liability company (“LLC”), organized under the laws of the State of Delaware and registered to do business in South Carolina. According to Mr. Kirk, the Company seeks to provide facilities based and resold local exchange and interexchange services. (Kirk Direct Testimony, p. 4, lines 2-5.) Mr. Kirk explained the Company’s request for authority and testified about EAE’s technical, financial, and managerial resources.

EAE expects to provide telecommunication services that include point-to-point services. (Kirk Direct Testimony, p. 4, lines 8-9.) These services will be offered to national and regional wireless service providers (“WSPs”), other telecommunications carriers, and communications providers. (Kirk Direct Testimony, p. 4, lines 9-10.) As a result, EAE’s customers will be primarily enterprise and carrier customers. EAE will initially utilize its own facilities and network infrastructure, but it also seeks authority to provide service via resale arrangements. (Kirk Direct Testimony, p. 4, lines 10-12.)

EAE does not intend to furnish switched voice services or dial tone according to the testimony. It also has no immediate plans to provide retail switched voice services, including dial-tone to end-user customers in South Carolina. (Kirk Direct Testimony, p. 4, lines 12-14.)

Regarding its management and technical capabilities, the Company’s Application and Mr. Kirk’s testimony both evidence that the Company’s management has extensive

experience in telecommunications, information technology, regulatory matters, accounting, and finance. (Kirk Direct Testimony, p. 5, lines 17-23; p. 6, lines 19-22.) Mr. Kirk also offered that EAE possesses sufficient financial resources to support its operations in South Carolina. (Kirk Direct Testimony, p. 6, lines 3-11.) Mr. Kirk testified that the Company will operate in accordance with Commission rules, regulations, guidelines, and Commission orders. (Kirk Direct Testimony, p. 4, lines 16-18.) Furthermore, Mr. Kirk asserted that approval of the Company's Application would serve the public interest. (Kirk Direct Testimony, p. 6, lines 13-19.)

The Company requested a waiver of Commission Regulation 103-610, as the Company's books are maintained out-of-state. (Kirk Direct Testimony, p. 8, lines 9-12.) Mr. Kirk confirmed the Company's operational headquarters are in Illinois, not Arkansas, as stated in the pre-filed Direct Testimony. (Kirk Direct Testimony, p. 8, line 15.) The Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts ("USOA"). (Kirk Direct Testimony, p. 8, lines 18-22.) The Company maintains its books in accordance with Generally Accepted Accounting Principles ("GAAP"). (Kirk Direct Testimony, p. 8, line 23- p. 9, line 2.) Additionally, the Company seeks a waiver of Commission Regulation 103-631, so that it will not be required to publish local exchange directories. (Kirk Direct Testimony, p. 9, lines 2-3.)

To the extent that the Company provides retail local exchange service in the future, the Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's customer databases in an appropriate directory. (Kirk Direct Testimony, p. 9, lines 3-6.) As previously noted, the

Company does not intend to provide retail residential local exchange services in South Carolina at this time. (See Kirk Direct Testimony, p. 4, lines 19-22.) Therefore, the bond requirement set out in Commission Regulation 103-607 does not currently apply to the Company. After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **III. FINDINGS OF FACT**

After review of all the evidence presented in this docket, the Commission makes the following findings of fact:

1. The Company is a limited liability company organized under the laws of the State of Delaware and registered to do business in the State of South Carolina.
2. The Company seeks authority to provide local exchange and interexchange telecommunications services in South Carolina.
3. The Commission finds that the Company has the managerial and technical capabilities to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1).
4. The Commission finds, based on the financial statement submitted by the Company and the testimony at the hearing, that the Company possesses sufficient financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1).
5. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280(B)(3).

6. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4).

7. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

8. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280(B)(5).

9. The Commission finds that the issuance of a Certificate of Public Convenience and Necessity to the Company to operate as a provider of local exchange and interexchange telecommunications services in South Carolina would be in the public interest of South Carolina by providing more innovative services and competitive choices.

10. The Commission finds that the Stipulation between SCTC and the Applicant is in the public interest.

11. ORS did not appear at the hearing and the fact that it did not oppose granting the CPCN herein is duly noted.

12. The Commission finds the Company’s requested waiver of S.C. Code Ann. Regs. 103-610 is reasonable and in the public interest. We also find that exemption from the policies that would require the Company to keep its records under the USOA reasonable. Because the Company does not intend to provide retail residential local exchange services, we find that its request to waive S.C. Code Ann. Regs. 103-607 is premature. Should the Company offer residential local exchange services in the future in South Carolina, we find that it should comply with the bond requirement of S.C. Code Ann.

Regs. 103-607. Finally, the requested waiver of Commission Regulation 103-631 is reasonable, and the Company will not be required to publish local exchange directories.

#### **IV. CONCLUSIONS OF LAW**

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application. S.C. Code Ann. § 58-9-280(B)(1) (2015).

2. The Commission concludes that the Company will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

3. The Commission concludes that the Company's provision of service will not adversely impact the availability of affordable local exchange service. S.C. Code Ann. § 58-9-280(B)(3).

4. The Commission concludes that the Company will, to the extent that the Company may be required to do so by the Commission, participate in the support of universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4).

5. The Commission concludes that approval of the Company's Application to provide resold and facilities-based local exchange and interexchange telecommunications services within South Carolina does not otherwise adversely impact the public interest. S.C. Code Ann. § 58-9-280(B)(5).

6. The Stipulation, as documented in Order Exhibit 1, between the Company and SCTC should be approved.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to the Company to provide facilities based and resold intrastate local exchange and interexchange telecommunications services.

8. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing. An investigation of the tariff filing may be instituted within thirty (30) days of the tariff filing, in which case the tariff filing would be suspended pending further order of the Commission. If an investigation is instituted on a particular tariff filing, notice of the investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within thirty days of the filing date. Further, any such tariff filings will be subject to the same monitoring process as similarly situated local exchange carriers.

9. Should the Company offer residential interexchange services in the future, the Commission adopts a rate design for the Company for its residential interexchange services which include maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re: Application of GTE*



*Sprint Communications Corporation, etc.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

10. Should the Company offer residential interexchange services in the future, the Company shall not adjust its residential interexchange rates for end-users below the approved maximum level without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, etc.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540.

11. The Commission concludes that the Company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows

business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven (7) days, the tariff filing will then be suspended until further order of the Commission.

12. We conclude that the Company’s request for waiver of S.C. Code Ann. Regs. 103-610 should be granted, because strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA, pursuant to S.C. Ann. Regs. 103-611, and grant waiver of S.C. Code Ann. Regs. 103-631, regarding publication of a local telephone directory. Finally, we conclude that S.C. Code Ann. Regs. 103-607 does not apply at this time, as the Company does not offer retail residential local exchange services.

13. The Stipulation between the Company and SCTC, as documented in Order Exhibit 1, should be approved.

**V. ORDERING PROVISIONS**

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:**

1. A Certificate of Public Convenience and Necessity should be granted to the Company to provide facilities based and resold local exchange and interexchange telecommunications services within the State of South Carolina.

2. The regulatory treatment adopted for the Company's services shall conform to the design described in Conclusions of Law above.

3. If it has not already done so, the Company shall file its revised tariff utilizing the Commission's e-filing system for tariffs within thirty (30) days of the issuance of this Order. The revised tariff should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov/Web>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov/Organization>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. The Company shall resell the services regulated by this Commission of only those local exchange carriers (LECs) authorized to do business in South Carolina by this Commission.

5. The Company shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, the Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial

information can be found at the ORS's website at <https://ors.sc.gov/>. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

6. Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at <https://ors.sc.gov/>, and the appropriate form is entitled "Gross Receipts Form."

7. Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at <https://ors.sc.gov/>. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 1st** with ORS.

8. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at

<http://psc.sc.gov/forms>; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

9. The Company is directed to comply with all Rules and Regulations of the Commission unless a regulation is specifically waived by the Commission.

10. The Company requested a waiver of S.C. Code Ann. Regs. 103-610, which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The Commission finds the Company's requested waiver reasonable and understands the potential difficulty presented to the Company should the waiver not be granted. The Commission therefore grants the requested waiver. However, the Company shall make available its books and records at all reasonable times upon request by ORS, and the Company shall promptly notify the Commission and ORS if the location of its books and records changes. Further, the Commission acknowledges that the Company shall maintain its financial records in conformance with GAAP. Additionally, we waive the requirements of S.C. Code Ann. Regs. 103-631.

11. In the event that the Company offers or provides any service that would implicate Title 23, Chapter 47 of the South Carolina Code Annotated, the Company is required to comply with that Title and Chapter, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, in the event the Company offers or provides the appropriate services, the Commission hereby instructs the

Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating, should the Company become interconnected to the public switched telephone network. Contact with the appropriate 911 service authorities is to be made before voice or dial tone service in South Carolina. By this Order and prior to providing voice or dial tone services within South Carolina, the Company shall contact the 911 coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system and shall provide information regarding the Company's operations as required by the 911 system.

12. The Stipulation with SCTC is hereby approved and incorporated as part of this Order.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



  
Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2021-276-C

Re: Application of	)	
	)	
<b>ExteNet Asset Entity, LLC</b>	)	<b>STIPULATION</b>
	)	
For a Certificate of Public Convenience and	)	
Necessity to Provide Competing Local Exchange,	)	
Exchange Access and Interexchange	)	
Telecommunications Services in the State of South	)	
Carolina, and for Alternative and Flexible	)	
Regulation	)	

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The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and ExteNet Asset Entity, LLC ("Applicant") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Applicant's Application. SCTC and Applicant stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Applicant, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Applicant stipulates and agrees that any Certificate which may be granted will authorize Applicant to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Applicant stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Applicant stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Applicant provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Applicant acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Applicant stipulates and agrees that, if Applicant gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Applicant will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Applicant acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Applicant, and this Stipulation in no way suspends or



adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

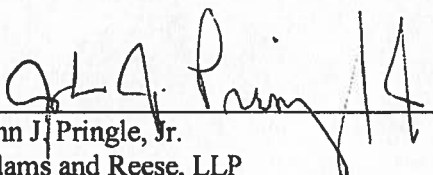
8. Applicant agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Applicant hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

10. Notwithstanding any provision contained herein, the terms, conditions and limitations of the Stipulation apply only in those instances where a rural telephone company's federal rural exemption under 47 U.S.C. § 251(f)(1) is implicated.

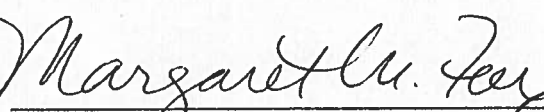
AGREED AND STIPULATED to this 1<sup>st</sup> day of October, 2021.

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ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

Chesnee Telephone Company  
Comporium, Inc. (f/k/a Rock Hill Telephone Company)  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company, d/b/a Comporium  
Home Telephone ILEC, LLC d/b/a Home Telecom  
Lancaster Telephone Company, d/b/a Comporium  
Lockhart Telephone Company, d/b/a TruVista  
McClellanville Telephone Company (TDS)  
Norway Telephone Company (TDS)  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
PBT Telecom, d/b/a Comporium  
Ridgeway Telephone Company, d/b/a TruVista  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company (TDS)  
TruVista Communications, Inc. (f/k/a Chester Telephone Company)  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company (TDS)